

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

IN RE REMICADE ANTITRUST LITIGATION	:	CIVIL ACTION
This document relates to:	:	
Indirect Purchaser Actions	:	No. 17-cv-04326 (consolidated)
Direct Purchaser Actions	:	No. 18-cv-00303 (consolidated)
PFIZER INC.,	:	CIVIL ACTION
Plaintiff,	:	
v.	:	No. 17-cv-04180
JOHNSON & JOHNSON and JANSSEN BIOTECH, INC.,	:	
Defendants,	:	
WALGREEN CO. and THE KROGER CO.,	:	CIVIL ACTION
Plaintiffs,	:	
v.	:	No. 18-cv-02357
JOHNSON & JOHNSON and JANSSEN BIOTECH, INC.,	:	
Defendants,	:	

ORDER SETTING PRETRIAL SCHEDULE AND DEPOSITION LIMITS

Consistent with the Court's rulings at the Rule 16 case management conference on September 27, 2018, the Court orders the following:

1. The following limits shall apply to party depositions:
 - a. Defendants are subject to a total of 20 party depositions. Plaintiffs will coordinate in the taking of those depositions.
 - b. Plaintiff Pfizer Inc. is subject to a total of 20 party depositions by Defendants.

- c. Each of the direct purchaser class plaintiffs, indirect purchaser class plaintiffs, and Plaintiffs Walgreen Co. and the Kroger Co. is subject to two party depositions by Defendants (a total of twelve depositions).
- d. Individuals and entities affiliated with the parties, including current and former employees, shall count toward the party deposition limits.

2. The following procedure shall apply for counting Rule 30(b)(6) depositions toward the deposition limits set forth in this Order:

- a. Any Rule 30(b)(6) deposition of a named party counts as 1 deposition no matter the number of witnesses designated to testify, unless the deposition exceeds 7 hours. In the event that a Rule 30(b)(6) deposition exceeds 7 hours, the additional hours shall count as an additional deposition or the pro rata portion of an additional deposition (e.g., if a Rule 30(b)(6) deposition lasts 14 hours, it shall count as 2 depositions out of the total party depositions allocated per side; if a Rule 30(b)(6) deposition lasts 10.5 hours, it shall count as 1½ depositions out of the total party depositions allocated per side).
- b. Subject to the per-side deposition cap, the parties are not precluded from seeking the deposition of a Rule 30(b)(6) designee in their individual capacity, which will count as an additional deposition.

3. The following limits shall apply to third party depositions:

- a. Each side (*i.e.*, all Plaintiffs constituting one side and Defendants constituting the other side) may take up to 45 third-party depositions.
- b. Third-party depositions will not count toward the per-side deposition cap

for party depositions.

- c. If only Plaintiff(s) or only J&J has noticed the third party's deposition, the noticing party will be allowed up to six hours of examination, allowing the other side up to one hour of examination.
- d. In the event Plaintiff(s) and J&J notice the same deposition, Plaintiff(s) and J&J will each be allocated three-and-a-half hours of examination time.
- e. If one side does not use its full allotted time for all examinations of the witness (including direct and re-direct), the other side may use any remaining time for their examination.
- f. Plaintiffs collectively count as one side for purposes of these allocations.

4. Notwithstanding the limits set forth above, the parties may seek leave from the Court for additional examination time or to exceed the limits if they reasonably and in good faith believe such additional examination time or depositions are necessary.

5. The following pretrial deadlines shall apply in the above-captioned cases:

<u>Event</u>	<u>Deadline</u>
Rule 26(a) initial disclosures due	October 11, 2018
Defendants produce, from April 1, 2014 to September 27, 2018, (i) in-house transaction-level data for Remicade sales, and (ii) executed contracts and signed agreements relating to the purchase, reimbursement, coverage, discounting, or rebating of Remicade; Pfizer produces, from April 1, 2014 to September 27, 2018, (i) in-house transaction-level data for Inflectra sales and (ii) executed contracts and signed agreements relating to the purchase, reimbursement, coverage, discounting, or rebating of Inflectra; DPPs and retailers produce, from April 1, 2014 to September 27, 2018, (i) in-house transaction-level data for all purchases of infliximab products and (ii) executed contracts and signed agreements	December 11, 2018

<u>Event</u>	<u>Deadline</u>
relating to the purchase of infliximab products from Defendants, Pfizer, and/or Merck; and IPPs products, from April 1, 2014 to September 27, 2018, (i) in-house transaction-level data for all reimbursements of infliximab products and (ii) executed contracts and signed agreements relating to the purchase, reimbursement, coverage, discounting, or rebating of infliximab products	
Substantial completion of document productions	May 24, 2019
Close of fact discovery	January 27, 2020
Plaintiffs shall identify and submit Curriculum Vitae for all expert witnesses on or before	January 27, 2020
Plaintiffs' Expert Reports (class and merits)	March 2, 2020
DPP and IPP Class Certification Motions	March 2, 2020
Defendants shall identify and submit Curriculum Vitae for all expert witnesses on or before	March 9, 2020
Defendants' Expert Reports (class and merits)	May 4, 2020
Defendants' Opposition to Motions for Class Certification including any motions challenging Plaintiffs' Expert(s) re class	May 4, 2020
Plaintiffs' Rebuttal Expert Reports (class and merits)	June 1, 2020
DPP and IPP Replies in Support of Class Certification, including oppositions to any motions challenging Plaintiffs' Expert(s) re class	June 1, 2020

<u>Event</u>	<u>Deadline</u>
Defendants' reply on any motion challenging Plaintiffs' Expert(s) re class	June 22, 2020
Close of Expert Discovery (all expert depositions to be completed)	June 22, 2020
Defendants' sur-reply on class certification (if sought and permitted)	June 30, 2020
Motions for summary judgment and <i>Daubert</i> motions	July 14, 2020
Responses to motions for summary judgment and <i>Daubert</i> motions	August 25, 2020
Replies in support of motions for summary judgment and <i>Daubert</i> motions	September 22, 2020
Pretrial conference regarding scheduling	At the earliest opportunity the Court has to meet with the parties after ruling on motions for summary judgment
Exchange of marked trial exhibits and court conference regarding trial and trial submissions	1 month after ruling on motions for summary judgment
Joint Pretrial Memoranda in accordance with Local Rule Civil Procedure 16.1(c)	2 weeks after the above date
Plaintiffs' and Defendants' Pretrial Memoranda	1 week after above date
Cases placed on Court's trial pool	2 weeks after above date

Dated: October 3, 2018

Respectfully submitted,

/s Adeel Mangi _____

/s Ross E. Elfand _____

Leslie E. John (PA Id. No. 62290)
Matthew I. Vahey (PA Id. No. 315920)
BALLARD SPAHR LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103
Tel: (215) 665-8500
john@ballardspahr.com
vahey@ballardspahr.com

William F. Cavanaugh (*pro hac vice*)
Adcel A. Mangi (*pro hac vice*)
Jonathan H. Hatch (*pro hac vice*)
George LoBiondo (*pro hac vice*)
PATTERSON BELKNAP WEBB & TYLER
LLP
1133 Avenue of the Americas
New York, NY 10036-6710
Tel: (212) 336-2000
wfcavanaugh@pbwt.com
aamangi@pbwt.com
jhatch@pbwt.com
jmdavies@pbwt.com

Thomas O. Barnett (*pro hac vice*)
Ashley E. Bass (*pro hac vice*)
COVINGTON & BURLING LLP
850 Tenth Street, NW
Washington, DC 20001-4956
Tel: (202) 662-6000
tbarnett@cov.com
abass@cov.com

*Counsel for Johnson & Johnson and Janssen
Biotech, Inc.*

Robert A. Milne (*Pro Hac Vice*)
Michael J. Gallagher (*Pro Hac Vice*)
Bryan D. Gant (*Pro Hac Vice*)
Ross E. Elfand (*Pro Hac Vice*)
White & Case LLP
1221 Avenue of the Americas
New York, NY 10025-1095
Tel: (212) 819-8200
Fax: (212) 354-8113
rmilne@whitecase.com
mgallagher@whitecase.com
bgant@whitecase.com
relfand@whitecase.com

H. Robert Fiebach (PA 02812)
Peter M. Ryan (PA 81816)
Cozen O'Connor
One Liberty Place
1650 Market Street, Suite 2800
Philadelphia, PA 19103
Tel: (215) 665-4166
Fax: (215) 665-2013
rfiebach@cozen.com
pryan@cozen.com

Elliott E. Dionisio (*Pro Hac Vice*)
White & Case LLP
555 S. Flower Street, Suite 2700
Los Angeles, CA 90071-2433
Tel: (213) 620-7700
Fax: (213) 452-2329
elliott.dionisio@whitecase.com

Trisha M. Grant (*Pro Hac Vice*)
White & Case LLP
701 Thirteenth Street, NW
Washington, DC 20005-3807
Tel: +1 202 625 3600
Fax: +1 202 639 9355
trisha.grant@whitecase.com

Counsel for Pfizer Inc.

/s David F. Sorensen

David F. Sorensen (#57766)
 Andrew C. Curley
 Zachary D. Caplan
 Karissa J. Sauder
 BERGER MONTAGUE PC
 1818 Market Street, Suite 3600
 Philadelphia, PA 19103
 Tel: (215) 875-3000
 Fax: (215) 875-4604
 dsorensen@bm.net
 acurley@bm.net
 zcaplan@bm.net
 ksauder@bm.net

*Interim Lead and Liaison Counsel for the
 Proposed Direct Purchaser Class*

Peter R. Kohn
 Joseph T. Lukens
 FARUQI & FARUQI LLP
 101 Greenwood Ave, Suite 600
 Jenkintown, PA 19046
 Tel: (215) 277-5770
 pkohn@faruqilaw.com
 jlukens@faruqilaw.com

Bradley J. Demuth
 FARUQI & FARUQI LLP
 685 Third Avenue, 26th Floor
 New York, NY 10017
 Tel: (212) 983-9330
 bdemuth@faruqilaw.com

Archana Tamoshunas
 TAUS, CEBULASH & LANDAU, LLP
 80 Maiden Lane, Suite 1204
 New York, NY 10038
 Tel: (646) 873-7654
 atamoshunas@tcllaw.com

*Additional Counsel for the Proposed Direct
 Purchaser Class*

/s Alexandra S. Bernay

Patrick J. Coughlin
 David W. Mitchell
 Brian O'Mara
 Alexandra S. Bernay
 Carmen A. Medici
 ROBBINS GELLER RUDMAN
 & DOWD LLP
 655 West Broadway, Suite 1900
 San Diego, CA 92101
 Tel: (619) 231-1058
 Fax: (619) 231-7423
 patc@rgrdlaw.com
 davidm@rgrdlaw.com
 bomara@rgrdlaw.com
 xanb@rgrdlaw.com
 cmedici@rgrdlaw.com

Randi D. Bandman
 ROBBINS GELLER RUDMAN
 & DOWD LLP
 30 Vesey Street, Suite 200
 New York, NY 10007
 Tel: (212) 693-1058
 randib@rgrdlaw.com

*Interim Lead Counsel for the Proposed
 Indirect Purchaser Class*

Jayne A. Goldstein (#48048)
 Natalie Finkelman Bennett (#57197)
 James C. Shah (#80337)
 SHEPHERD, FINKELMAN, MILLER &
 SHAH, LLP
 35 East State Street
 Media, PA 19063
 Tel: (610) 891-9880
 Fax: (866) 300-7367
 jgoldstein@sfmslaw.com
 nfinkelman@sfmslaw.com
 jshah@sfmslaw.com

*Interim Liaison Counsel for the Proposed
 Indirect Purchaser Class*

/s Barry L. Refsin

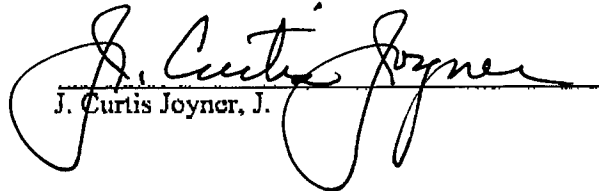
Barry L. Refsin
Maureen S. Lawrence
HANGLEY ARONCHICK SEGAL PUDLIN
& SCHILLER
One Logan Square, 27th Floor
Philadelphia, PA 19103
Tel: (215) 568-6200
brefsin@hangley.com
mlawrence@hangley.com

Richard Alan Arnold
Scott E. Perwin
Lauren C. Ravkind
Anna T. Neill
KENNY NACHWALTER P.A.
1441 Brickell Avenue
Four Seasons Tower, Suite 1100
Miami, FL 33131
Tel: (305) 373-1000
raa@knpa.com
sperwin@knpa.com
lravkind@knpa.com
ancill@knpa.com

Counsel to Walgreen Co. and The Kroger Co

BY THE COURT:

October 4, 2018


J. Curtis Joyner, J.